

STATE OF HAWAII

1. The Complaint was filed on May 14, 2013, pursuant to the provisions of Section 2-18-201(a)(3) of the 2008 Neighborhood Plan, as amended ("Plan").

2. On April 24, 2013, at a Regular Meeting of the Neighborhood Board No. 34, the complainant alleges a violation of the neighborhood plan under Sections 2-14-116.

3. At all times relevant herein, Respondent was a member of the Neighborhood Board No. 34.

4. On May 22, 2013, Respondent was notified of the Complaint and was provided an opportunity to respond to the allegations contained in the Complaint. The Commission received a response from Respondent Cullen on July 16, 2013.

5. On July 3, 2013, in accordance with Hawaii Revised Statutes ("HRS") Sections 91-9 and 91-9.5, notice of the hearing was provided to the Respondent via certified mail, return receipt requested.

6. The Complaint alleges that on the date set forth in paragraph 2 of this Findings of Fact, the Respondents violated the following section of the Plan: 2-14-116.

7. Section 2-14-116 of the Plan requires any board member who knows he or she has a personal or private interest, direct or indirect, on any proposal before the board shall disclose the interest either orally or in writing to the board. The disclosure shall also be made a matter of public record before the board takes any action of the proposal.

8. The complaint contained five (5) specific allegations that occurred at the Neighborhood Board No. 34 Meetings on December 2012, January, February, March and April 2013: (1) Respondent Cullen failed to disclose that he is the brother of Representative Ty Cullen at each of these meetings when it was time for the Representative's report to be given at the Board meeting under section 2-14-116.

9. Respondent Cullen submitted a written statement, dated July 16, 2013, in lieu of attendance.

10. Complainant testified as to the claims in this Complaint.

11. The Commission took Judicial Notice of the Neighborhood Board No. 34 December 2012, January, February, March and April 2013 minutes, agendas and Olelo video Taped regular meetings.

12. The Commission reviewed the minutes and video taped meetings of the Neighborhood Board No. 34 and learned the following:

- a. December 2012: There was no report by Ty Cullen
- b. January 2013: There was no report by Ty Cullen
- c. February 2013: Written report by Ty Cullen submitted
- e. March 2013: There was no report by Ty Cullen
- f. April 2013: There was no report by Ty Cullen

at each of the meetings Ty Cullen was not in attendance.

13. With respect to allegations 1, 2, 3, 4, and 5 the Commission, having heard the arguments of the Complainant and Respondent, considering all the evidence, finds that the Complainant failed to meet his burden of proof of proving that Respondent Cullen violated the Plan by a Preponderance of the Evidence.

CONCLUSIONS OF LAW

1. The Recommendation was filed in accordance with the provisions of Section 2-18-101(a)(1) of the Plan.

2. The parties were properly noticed pursuant to HRS Sections 91-9 and 91-9.5.

3. This hearing was properly conducted in accordance with HRS Chapter 91 and Section 2-18-102 of the Plan.

4. This matter is properly before the Commission pursuant to Section 2-18-102 of the Plan and the Commission has the authority to review a Neighborhood Board and/or a Neighborhood Board member's action(s) and issue sanctions in accordance with Sections 2-18-102 and 2-18-104 of the Plan.

5. Pursuant to HRS Section 91-10(5), the Complainant has the burden of proof including the burden of producing evidence as well as the burden of persuasion by a preponderance of the evidence.

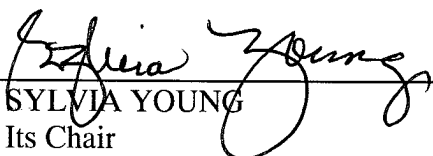
DECISION AND ORDER

Based upon the foregoing, the Commission hereby finds that the Complainant, Thad Speg failed to establish, by a preponderance of the evidence allegations 1, 2, 3, 4, and 5 contained in Complaint No. 2012-02.

Therefore, it is hereby ordered in accordance with Section 2-18-101(b) of the 2008 Neighborhood Plan, as amended, that the Complaint is Dismissed as to Respondent Cullen.

DATED: Honolulu, Hawaii, September 13, 2013.

NEIGHBORHOOD COMMISSION

By 
SYLVIA YOUNG
Its Chair